

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

PATTY OTT,

Plaintiff,

v.

**WAL-MART STORES, INC. and
ALLEN J. COON,**

Defendants.

:
:
:
:
:
:
:
:
:
:
:
:

**Civil Action No.
5:09-CV-215-HL**

ORDER

This case was removed to this Court on July 1, 2009, when Defendants Wal-Mart Stores, Inc. and Allen J. Coon filed a Notice of Removal (Doc. 1). Attached to the Notice of Removal were the original complaint filed by Plaintiff Patty Ott in the State Court of Houston County, Georgia, the summons, discovery requests, and the answer of Defendants Wal-Mart Stores, Inc. and Allen J. Coon, also filed in the State Court of Houston County. On July 22, 2009, Plaintiff filed an Amended Complaint in the removed case (Doc. 6).

Federal Rule of Civil Procedure 15 governs amended and supplemental pleadings. Under Rule 15(a)(1), a party may amend its pleading once as a matter of course before being served with a responsive pleading or within 20 days after serving the pleading if a responsive pleading is not allowed and the action is not on

the trial calendar. Fed. R. Civ. P. 15(a)(1)(A)-(B). In all other situations, amendments are allowed only with the opposing party's written consent or leave of the court. Fed. R. Civ. P. 15(a)(2).

The provisions of Rule 15(a)(1) are not applicable here because Defendants have already served a responsive pleading and more than 20 days have passed since service of the complaint. Thus, the Court will consider Rule 15(a)(2) to determine if Plaintiff's Amended Complaint was properly filed.

There is no indication in the Amended Complaint that Plaintiff received written consent from Defendants to file the amendment. No such written consent has been filed with the Court. Also, Plaintiff did not file a motion requesting permission from the Court to file the amendment.

In light of Plaintiff's failure to abide by the provisions of Rule 15, the Court directs the Clerk to strike Plaintiff's Amended Complaint (Doc. 6). Plaintiff may, of course, attempt to amend her complaint at a later date by complying with Rule 15.

SO ORDERED, this the 24th day of July, 2009.

s/ *Hugh Lawson*
HUGH LAWSON, SENIOR JUDGE

mbh